

FILED

JUL 22 2004
CLERK'S OFFICE
U.S. DISTRICT COURT
EASTERN MICHIGAN

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In Re: § Case No. 00-CV-00005-DT
Dow Corning Corporation, § (Settlement Facility Matters)
§
Reorganized Debtor. § HON. DENISE PAGE HOOD
§
§

**AGREED ORDER AUTHORIZING THE CLAIMS ADMINISTRATOR
TO PROVIDE DATA AND DOCUMENTATION TO THE CANADIAN
CLAIMS ADMINISTRATORS AND CLAIMS OFFICES**

Section 5 of the Amended Joint Plan of Reorganization of Dow Corning Corporation ("the Plan") includes provisions for the establishment of separate claims offices for each of the Canadian class action settlements in Quebec (6A), Ontario (6B) and British Columbia (6C). These separate settlements were not authorized to begin pre-Effective Date claims office activities similar to the pre-Effective Date activities of the Settlement Facility-Dow Corning Trust (the "SF-DCT"), and have only begun operations upon the Effective Date, June 1, 2004.

The SF-DCT maintains the database and files for Settling Personal Injury Claimants under the Dow Corning Plan of Reorganization and also maintains a database of claimant names and addresses for purposes of various other mailings. In addition, the SF-DCT has access to files and a database created by the MDL Claims Office. The data and files that the SF-DCT maintains include information for claims that are or may be eligible for benefits in one of the Canadian class action settlements. The Plan Documents provide that claimant-specific information is confidential and not to be shared or

disclosed outside of the parameters specified in the Plan Documents. The Plan, however, is silent about providing claimant information to the three Canadian claims offices that are responsible for administering the Canadian class settlements.

Likewise, the Canadian settlement agreements provide for the establishment of claims offices, but are silent about how those offices will work together and with the U.S. Claims Administrator. The Dow Corning/British Columbia and Other Provinces Breast Implant Litigation Settlement Agreement (the "British Columbia Settlement Agreement") provides for the appointment of a Claims Administrator, who is required to administer the British Columbia Settlement Amount and process claims in accordance with the British Columbia Settlement Agreement. *See* British Columbia Settlement Agreement at ¶ 7.3. The British Columbia Settlement Agreement further provides:

The Claims Administrator and any employee appointed by the Claims Administrator to assist in the processing of claims (referred to herein as a "Claims Officer") shall be required to sign a confidentiality statement by which they shall agree to keep confidential any information concerning Settling Class Members and shall institute procedures to assure that the identity of all Settlement Class Members, and all information regarding their claims, will be kept confidential and not be provided to persons except as required by law and as otherwise may be permitted by this agreement.

Id.

The Dow Corning/Ontario Breast Implant Litigation Settlement Agreement (the "Ontario Settlement Agreement") similarly provides for the appointment of a Claims Administrator and a Claims Facility. *See* Ontario Settlement at ¶ 7.3. The Ontario Claims Administrator is required to administer the Ontario Settlement Amount and process claims in accordance with the Ontario Settlement Agreement. *Id.* The Ontario Settlement Agreement further provides:

The Claims Administrator and any claims officer appointed by the Claims Administrator to assist in the processing of claims (referred to herein as a "Claims Officer") shall be required to sign a confidentiality statement by which they shall agree to keep confidential any information concerning Settling Claimants and shall institute procedures to assure that the identity of all Settling Claimants and all information regarding their claims will be kept confidential and not be provided to persons except as required by law and as otherwise may be permitted by this agreement.

Id.

Finally, the Dow Corning/Quebec Breast Implant Litigation Settlement Agreement (the "Quebec Settlement Agreement") provides for the appointment of a Quebec Claims Administrator, who is required to administer the Quebec Settlement Amount and process claims in accordance with the Quebec Settlement Agreement. *See* Quebec Settlement Agreement at ¶ 6.3. The Quebec Settlement Agreement further provides:

The Claims Administrator and any employee appointed by the Claims Administrator to assist in the processing of claims (referred to herein as a "Claims Officer") shall be required to sign a confidentiality statement by which they shall agree to keep confidential any information concerning Settlement Class Members and shall institute procedures to assure that the identity of all Settlement Class Members, and all information regarding their claims, will be kept confidential and not be provided to persons except as required by law and as otherwise may be permitted by this agreement.

Id.

The Canadian settlement agreements and the Plan documents thus do not provide clear authority for the respective claims administrators in Canada and the Claims Administrator of the SF-DCT to communicate with each other and share claimant information amongst themselves in order to ensure that claims are properly processed and administered under the respective agreements. For example, with each claims office

processing claims under specific guidelines and confidentiality requirements, various claimants may submit information to the wrong office and it will be necessary for the claims administrators of all the claims facilities to share information to assure that claims are processed in the appropriate office, to prevent claimants from submitting claims-- and receiving payments from-- more than one facility, and to guard against any potential fraud.

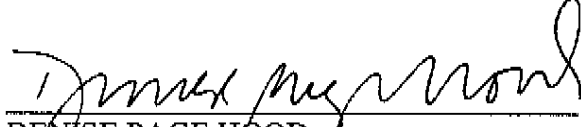
The Debtor's Representatives and Claimants' Advisory Committee have therefore submitted this Agreed Order to the Court authorizing the Claims Administrator to take following actions set forth below (similar orders are being submitted to the Canadian Courts by Dow Corning and respective Class Counsel to clarify that the Canadian claims administrators can likewise share information between themselves and with the SF-DCT for the purposes of administering the settlements and not for disclosure to any third parties unless otherwise authorized):

1. The Claims Administrator is authorized to provide a copy of the Settlement Facility database, and a copy or original of the claimant files and other claimant documents for any claimant that is or may be a member of one of the Canadian classes, including any information, data and/or documents obtained from the MDL 926 Claims Office as authorized by the MDL Court, and to establish procedures for the future exchange of data and cooperation with the Canadian claims offices on all matters of mutual concern including ensuring that a claimant may participate and recover payment from only one facility and as a member of only one class as defined in the Plan.

2. The Claims Administrator is authorized to provide a copy of the Settlement Facility claims processing annotations to each of the Canadian claims offices and to establish procedures for the future exchange of claims processing annotations and related matters.

The Canadian claims offices shall maintain the confidentiality for all claimant information and claims processing annotations from the Settlement Facility and shall not disclose or provide this information to anyone without first applying to this Court, with copies to the Debtor's Representatives and Claimants' Advisory Committee, for authorization.

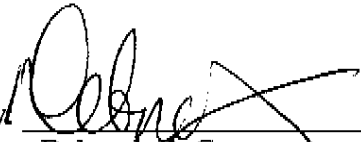
DATED: JUL 22 2004



DENISE PAGE HOOD
United States District Judge

So Stipulated:

FOR DOW CORNING CORPORATION

FOR THE CLAIMANTS' ADVISORY
COMMITTEE

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